

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION

FLEXIBLE INNOVATIONS LTD., §
a Texas Limited Partnership, §
§
Plaintiff, §
§ Civil Case No. 4:14-CV-00350-0
v. §
§
K DESIGN MARKETING, INC., §
A Montana Corporation §
§
Defendant. §

**ORDER GRANTING PLAINTIFF'S MOTION
FOR DEFAULT JUDGMENT AND SETTING HEARING**

This case was considered on Plaintiff's Motion for Default Judgment with Brief in Support. Having considered the Motion, the Court finds the Motion to be well taken and the grounds for a default judgment against Defendant, K Design Marketing, Inc. ("KDM") are established. Accordingly, the Court hereby finds as follows:

1. The Court has subject-matter jurisdiction, has personal jurisdiction over KDM, and venue is proper in this Court.

2. KDM has committed trademark infringement, federal unfair competition under the Lanham Act, and common-law unfair competition.

3. Because the damages are unliquidated, the Court hereby sets a hearing in this case before this Court on _____, 2014, at _____ o'clock _____.m.

[3. The Court hereby awards \$_____ in lieu of profits under the circumstances, particularly in light of the difficulty of proving profits in default cases.]

4. Because the actions of KDM are ongoing, the Court finds a permanent injunction should be granted, in that (a) Plaintiff has actually succeeded on the merits; (b) the remedy at law

is inadequate, given the continuing conduct; (c) the threatened injury to the Plaintiff outweighs any damage to the Defendant, who has no legitimate interest in continuing to disregard the law; and (d) the injunction will not disserve the public interest, as the public will be benefitted by the enforcement of the law.

5. In the Court's discretion, the Court finds this is an exceptional case due to the fact that KDM has completely disregarded this litigation by failing to appear, and therefore attorneys' fees should be awarded to Plaintiff.

Accordingly, it is hereby **ORDERED AND ADJUDGED** as follows:

A. A hearing is set for _____, 2014, at _____ o'clock _____.m.

[A. Plaintiff, Flexible Innovations Ltd., is hereby awarded against the Defendant, K Design Marketing, Inc., judgment for _____ Dollars (\$_____);]

B. Defendant, and all employees, agents, anyone acting in concert with Defendant, and other persons with knowledge of this Order, are hereby **ENJOINED** to refrain from further use of DIGICLEAN, DIGICLOTH, DIGIPAD, or any name or mark deceptively similar thereto in any manner (including, but not by way of limitation, as a hidden keyword computer search term);

C. Plaintiff be awarded its reasonable and necessary attorneys' fees, which shall be adjudged in a separate order pursuant to proof offered by Plaintiff with fourteen (14) days;

D. Plaintiff be awarded its court costs; and

E. Plaintiff be awarded post-Judgment interest at the legal rate of _____ percent (____ %), compounded annually.

SO ORDERED this _____ day of _____, 2014.

Reed O'Connor
United States District Judge

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